

## **MEETING MINUTES, BOARD OF ZONING APPEALS, FEBRUARY 11, 2008**

**Present:** Phil Tinkle, Shan Rutherford, Mike Campbell, Alford Kessinger, Jay Isenberg, Asst. City Attorney, William Peeples, Senior Planner; and Janice Nix, Recording Secretary

The meeting was called to order at 6:00 p.m. by Phil Tinkle, Chairman.

Chairman Tinkle introduced new board member Alford Kessinger.

### **PREVIOUS MINUTES**

January 14<sup>th</sup> – Rutherford moved to approve the minutes as mailed, seconded by Campbell. Vote for **approval** was unanimous, 3-0, with Mr. Kessinger abstaining. **Motion carried.**

### **FINDINGS OF FACT**

**Docket V2008-001 – Dimensional Variance** – Devonshire II – Campbell moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2008-001, seconded by Rutherford. Vote for **approval** was unanimous, 3-0, with Mr. Kessinger abstaining. **Motion carried.**

### **NEW BUSINESS**

**Docket V2008-002 – Dimensional Variance – Panda Express** – located at 331 S. St. Rd. 135 – request to allow additional wall sign on north side of building – Meridian Market Shoppes, LLC, owner; Atlas Sign Co., representing.

Eric Martledge, Atlas Sign Company, came forward and was sworn. He stated their request is to allow a second wall sign with the location being on the north side of the building.

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** the sign would be securely affixed to the facade of the building and would comply with all required provisions of the Indiana Electrical Code. The northern façade faces a parking area used by patrons and existing building that is part of this retail development. This proposed sign would aid in locating this tenant space.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** the proposed sign would be identical in design to an existing sign on the western façade of the building but would be affixed to the northern façade of the building. The affect of this sign would be in no way different than the affect of the signage on the western façade. Not having signage on the north façade may make patrons turn into the wrong building area.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** the tenant space wherein the use is located is in the corner of the building and has exposures on the northern and western facades. The Ordinance provides for signage based upon street frontage, irrespective of the orientation of the structure with respect to that street or the supporting parking lot. Additionally, the Sign Code would permit one sign at 200 sq. ft. in size. The combined area for the two signs would be 150 sq. ft. which would be 50 sq. ft. less than that permitted for one sign. With the limited square footage, the intent of the Sign Code for conservative signage is realized.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because **Answer:** the use is outside the Airspace Overlay District and is located 19,470 feet from the runway of the nearest public use airport.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Kathy Summers, 253 Melody Avenue, Grwd, came forward and was sworn. She stated she lives northeast of this business. The business currently has a marquee sign, wall sign on the west (front) of the building and a window sign currently existing on the north elevation. She feels that an additional sign is not needed. She suggested making the west elevation sign larger.

Mr. Martledge came forward and stated that the window sign is temporary and will be removed once the new sign is place on the wall.

Campbell moved to approve an additional wall sign on the north elevation of the building for Panda Express located at 331 S. St. Rd. 135, seconded by Rutherford. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Rutherford moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Variance Petition Number V2008-002, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

#### **ANNOUNCEMENTS/REPORTS**

Campbell moved to adjourn, seconded by Rutherford. Vote for **approval** was unanimous, 4-0. **Motion carried.** Meeting was adjourned at 6:23 p.m.

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JANICE NIX  
Recording Secretary

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PHIL TINKLE  
Chairman